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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

## Universal Service Administrator

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CC Docket No. 96-45

## November 8, 2002

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of )

Request for Review )

CC Docket No. 97-21

by Integrity Communications Ltd )

CC Docket No. 96-45

of the Decision of the  
Universal Service Administrator )

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**PETITION FOR REVIEW**

Integrity Communications, Ltd. (“Integrity Communications”), by its counsel, hereby requests that the Commission review *de novo* the attached Decision (Exhibit A) of the School and Libraries Division (“SLD”) of the Universal Service Administrative Company (“USAC”) pursuant to 47 C.F.R. §§ 54.719 and 54.723.

**I. INTRODUCTION**

Integrity Communications seeks review of SLD’s decision denying Information Referral Resource Assistance Independent School District’s (“IRRA”) application for Year 2001-2002 (“Year Four”) e-Rate funding, which was based on a finding that there was no legally binding agreement at the time IRRA filed its Form 471 application with SLD.

**II. SUMMARY OF FACTS AND ARGUMENT**

Integrity Communications is a service provider of equipment for voice, video and data communications, and internal connections, and operates throughout the state of Texas. On December 19, 2002, IRRA submitted to SLD Form 470 in order to solicit bids

from service providers for various services. In response to IRRA's Form 470, Integrity Communications submitted a bid proposal, which IRRA accepted. Subsequently, IRRA submitted Form 471 to SLD and designated Integrity Communications as the service provider that it was going to utilize for internal connections for the e-Rate Program.

On January 11, 2002, SLD sent a letter denying IRRA/Integrity Communications' Year Four funding request because "no contract or legally binding agreement was in place when the Form 471 was filed." On February 22, 2002, Integrity Communications filed a letter of appeal with SLD arguing that a legally binding contract had been entered into between Integrity Communications and IRRA at the time Form 471 was filed. (Exhibit B) On September 9, 2002, SLD issued a Decision on Appeal which denied the appeal in full. (Exhibit A) According to SLD's Decision on Appeal, it determined that the documentation submitted by the parties did not support the parties' contention that there existed a legally binding agreement between Integrity Communications and IRRA. Therefore, Integrity Communications is timely filing this Petition for Review with the Federal Communications Commission ("FCC") requesting review of SLD's Decision on Appeal.

In its decision letter, SLD specifically stated that when IRRA filed its Form 471, IRRA indicated that the contract award date for the funding request with Integrity Communications was January 16, 2001. According to SLD, on September 6, 2001, IRRA was asked for copies of all contracts and IRRA responded that they had none. On November 28, 2001, SLD again requested a copy of the legally binding agreement with Integrity Communications. In response, IRRA faxed a copy of a contract with Integrity Communications, which had been signed by the applicant and the service provider on that

date. On December 13, 2001, SLD contacted IRRA again and requested documentation of any legally binding agreements between Integrity Communications and IRRA between December 2000 and the current date. IRRA responded with a copy of an “Addendum” that stated that the filing of Form 471 was a legally binding agreement between IRRA and the provider. According to SLD’s Decision on Appeal, IRRA failed to explain the discrepancies between the information presented at various times during the review regarding the status of IRRA’s contract/legally binding agreement with Integrity Communications. Thus, SLD denied the funding request.

We agree that there has been a considerable amount of confusion during the instant application process for Year Four funding, however, the vast majority of confusion was created by SLD’s unclear requests for information from IRRA. Pursuant to the Instructions for Completing Form 471, IRRA understood that when Form 471 is filed SLD requires a signed contract or a legally binding agreement between the District and the vendor preparatory to a formal signed contract. *See Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471)*, page 19 (Exhibit C). In addition, IRRA understood that SLD does not require a District to certify that a signed contract is in place between the District and the vendor until Form 486 is submitted. *See Form 486 Filing Guidance*, question 2 (Exhibit D). IRRA believed that it did have a legally binding agreement at the time Form 471 was filed and thus, believed it was abiding by the requirements set forth by SLD. In fact, the case law is clear that IRRA’s original acceptance of Integrity Communication’s bid proposal constituted a legally enforceable agreement.

In A&A Construction Company, Inc. v. City of Corpus Christi, 527 S.W.2d 833, 835 (Tex. App. 1975), the court held that it is basic contract law that a bid is an offer and is binding once accepted by another. See also DRT Mechanical Corp. v. Collin County, Texas, 845 F. Supp. 1159 (E.D. Tex. 1994)(citing to A&A Construction, 527 S.W.2d at 835, for the proposition that a bid is an offer and binding once accepted). In addition, in Pension Investment Corp. of America v. East Baton Rouge Parish School Board, 583 So.2d 598 (1<sup>st</sup> Cir. 1991), the East Baton Rouge Parish School Board issued a document entitled “Bid Form” for the sale of property. The Federal Court of Appeals held that once a bid was accepted by the School Board there existed a binding and enforceable contract between the school board and the bidder. Id. at 601. It is apparent from the above-mentioned cases that at the time IRRA accepted Integrity Communications’ bid for providing internal connections, there existed a legally enforceable, binding agreement between the two parties. Thus, SLD was in err when it originally denied IRRA’s funding request because a legally binding agreement was in existence when Form 471 was filed.

After IRRA and Integrity Communications’ funding request was denied by SLD, both parties filed timely letters of appeal with SLD. Subsequent to the filing of these appeals, IRRA was contacted on numerous occasions by SLD. On September 6, 2001, SLD asked for copies of all contracts for its Universal Service Program. IRRA found SLD’s inquiries to be confusing because IRRA understood that SLD’s Form 471 instructions required either a signed contract or a legally binding agreement between the District and the vendor preparatory to a formal signed contract to be in place when Form 471 is filed. IRRA had already attached Integrity Communications’ bid proposal, which IRRA had accepted, to Form 471. Since IRRA only had the bid proposal as evidence of a

legally binding agreement between IRRA and Integrity Communications, IRRA replied to SLD that it had no contract.

On November 28, 2001, SLD again contacted IRRA and requested a copy of the legally binding agreement between IRRA and Integrity Communications. IRRA misunderstood this subsequent request as an instruction for the parties to enter into a contract. Thus, in attempt to satisfy SLD's request, IRRA and Integrity Communications executed a contract on November 28, 2001.

On December 13, 2001, SLD again contacted IRRA and began the same line of questioning and again requested a copy of the legally binding agreement between the parties. Frustrated with SLD's unexplained requests for documentation and uncertain what SLD was truly requesting, IRRA simply responded by an addendum that its filing of Form 471 was evidence of the legally binding agreement between the parties.

During these four months of questioning, SLD never made clear to IRRA that it believed it was receiving conflicting information from IRRA, nor did SLD make clear the exact nature of its requests. At no time did SLD indicate that it believed IRRA's responses to be inconsistent **or** request explanation of its perceived inconsistency. Regardless, IRRA and Integrity Communications had entered into a legally enforceable agreement at the time Form 471 was filed with SLD. Attached to this Request for Review is the affidavit of Agnie Perta, CEO and Superintendent of IRRA. (Exhibit E) This affidavit provides further support that there existed a legally binding agreement between IRRA and Integrity Communications at the time Form 471 was filed with SLD.

As the FCC is aware, the e-Rate Program has been the subject of criticism and controversy for some time. The process to apply for funding is complicated, especially

for School District personnel, who are trained in school administration. These persons are neither experienced in dealing with the bureaucracy of the federal government nor do these persons have the legal expertise to determine what constitutes a contract or legally binding agreement. In addition, there seems to be no hard and fast rules regarding what SLD considers to constitute a legally binding agreement or a contract sufficient to satisfy the requirements of Form 471. The Instructions for Form 471 simply state: “You MUST have a signed contract (or a legally binding agreement between you and your service provider preparatory to a formal signed contract) for all services you order on Form 471 ...”

Clearly, in this case the process was wrought with confusion. However, pursuant to basic contract law and Texas law, in particular, which is the law governing the parties in this case, the parties had entered into a legally binding agreement at the time IRRA accepted Integrity Communications’ bid proposal. Thus, when IRRA submitted Form 471 to SLD there was a legally binding agreement between the District and vendor preparatory to a formal signed contract.

In another appeal that Integrity Communications is filing today with the F.C.C. (related to Rio Grande City I.S.D.), SLD was presented with the exact same set of facts when it initially questioned whether there was a legally binding agreement between Integrity Communications and Rio Grande I.S.D. In that case, SLD reversed itself and found that there was a legally binding agreement (although SLD later found a deficiency on other grounds not applicable here, which Integrity Communications is appealing). The inconsistency between SLD’s findings regarding a legally binding agreement in the Rio Grande City I.S.D. case, and the instant case involving IRRA, cannot be explained by

the facts of the cases. In each case, as supported by affidavits from the superintendents, Integrity Communications responded to a request for proposals contained in Form 470. In each instance, the vendor submitted a bid proposal, which was accepted by the school district. In each instance, the accepted bid proposal was then supplied to SLD. In one case, however, SLD finds that there is no binding agreement, while in the other case SLD finds that there is a binding agreement.

There exists extensive confusion, as noted above, regarding many Universal Service Program requirements and rules. Integrity Communications requests that the Commission adopt a consistent interpretation that acceptance of a bid proposal creates a legally binding agreement, as SLD found in the case of Integrity Communications/Rio Grande City I.S.D., and apply that interpretation to the situation with IRRA.

In summary, there is no basis to deny Year Four funding for IRRA/Integrity Communications based on the fact that no legally binding agreement existed between the parties when Form 471 was filed.




### **III. Conclusion**

On de novo review, Petitioner requests that the Commission direct SLD to grant Integrity Communications and IRRA's application for Year Four funding. Petitioner requests that the Commission direct SLD to immediately fund IRRA's request for funding immediately without further delay.

Respectfully submitted,

**INTEGRITY COMMUNICATIONS**

By: 

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Washington, D.C. 20006

Its Counsel

## **EXHIBIT A**



Universal Service Administrative Company  
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2001-2002

September 9, 2002

Bill Sugarek  
Integrity Communications  
Re: Information Referral Resource Assistance, Inc.  
P. O. Box 260154  
Corpus Christi, TX 78426

Re: Billed Entity Number: 199944  
471 Application Number: 249067  
Funding Request Number(s): 608395, 608364, 608340  
your Correspondence Dated February 22, 2002

**After** thorough review **and** investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") **has** made its decision in regard **to** your appeal of SLD's Year **Four** Funding Commitment Decision for the Application Number indicated above. **This** letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please **note** that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 608395, 608364, 608340  
Decision on Appeal: **Denied in full**

- **You** have stated in your appeal letter that you feel that based on the legal definition of a binding agreement, that you did in fact **have** a legally binding agreement **at** the time the Form 471 **was** filed by the Information Referral Resource Assistance, Inc. (IRRA). You are **asking** SLD to reverse their decision **and** **fund** this request.
- When Information Referral Resource Assistance, Inc. filed their Form 471 they indicated that the Contract Award Date for the funding requests with Integrity Communications was January 16, 2001. On September 6, 2001, the applicant was asked for copies of all of **their** contracts, and the district responded on September 17, 2001 that they had none. On November 28, 2001, when the SLD **then** requested a copy of **the** legally binding agreement with the **Integrity** Communications, **the** applicant faxed a copy of a contract with Integrity. **This** contract was signed by the applicant **and** the vendor on November 28, 2001, not January 16, 2001, as stated on the Form 471. On December 13, 2001, SLD contacted IRRA again and requested documentation of any **legally** binding agreements between **Integrity** and the IRRA

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between December 2000 and the current date, The applicant responded with a copy of an "Addendum" that stated that the filing of the Form 471 was a legally binding agreement between the IRRA and the provider.

- At no time did the applicant explain the discrepancies between the information presented to PIA at various times during the review regarding the status of their contract or legally binding agreement with Integrity Communications. Furthermore, no such explanation is given in the letter of appeal.
- In re *Request for Review of the Decision of the Universal Service Administrator by New Orleans Public Schools*, CC Docket 96-45, 97-21, DA 02-74 (rel. September 18, 2001) the FCC held that when the SLD is presented with conflicting information, and is not given an explanation or reconciliation of the discrepancies, the SLD can reasonably rely on the original statement of the applicant. The FCC states in that Order, "where an applicant alters critical data without explanation in response to concerns expressed by SLD, our confidence in the accuracy of the subsequent data is undermined." Therefore, we believe that no contract or legally binding agreement existed between the district and Integrity Communications at the time that the Form 471 was filed.
- Program rules require that there be a legally binding agreement for all funding requests at the time the Form 471 is filed. Since the applicant was unable to provide the required documentation the request was correctly denied.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC) via United States Postal Service: FCC, Office of the Secretary, 445-12<sup>th</sup> Street SW, Washington, DC 20554. If you are submitting your appeal to the FCC by other than United States Postal Service, check the SLD web site for more information. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. The FCC must **RECEIVE your appeal WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER** for your appeal to be filed in a timely fashion. Further information and new options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, [www.sl.universalservice.org](http://www.sl.universalservice.org).

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Agnie Perra  
Information Referral Resource Assistance, Inc.  
612N. McColl Road  
P. O. Box 164  
McAllen, TX 78504

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## EXHIBIT B



Information Referral Resource Assistance, ISD	Form 471 Application Number	Funding Request Number (s)	Entity Number
	249067	608395,608364,608340	199944

Information Referral Resource Assistance, ISD	Funding Commitment Decision	Funding Request Number (s)
	No Contract or Legally Binding agreement When Form 471 was tiled.	608395,608364,608340

### **According to “Contract Law”**

“A contract is a legally binding agreement between parties to do or not do something.”

### **Contract Components:**

**PO Box 260154, Corpus Christi, TX 78426**  
**Phone: 367-242-1000 Fax: 361-242-9300 Email: [admin@integrilycd.com](mailto:admin@integrilycd.com)**  
**Integrity...our name says it all!**

“There are three elements that must be present for a contract to exist: **offer, acceptance, consideration.**”

**Offer:**

“The first step to a contract is an offer. An offer is a written or spoken statement by a party of his or her intention, to be held to a commitment upon acceptance of the offer.”

- ❑ Information Referral Resource Assistance ISD. Requested a quote for particular items and services from Integrity Communications, **of** which Integrity Communications responded with a written and spoken statement of Integrity Communications’ intentions to provide all of the items and services requested; including details, prices, warranties, etc.

**Acceptance:**

“The second requirement for a valid contract is acceptance of the offer.”

- ❑ Information Referral Resource Assistance ISD. , in fact, accepts the contractual agreement with Integrity Communications responding with a written and verbal acceptance. The appropriate authorized individual signed the 471 after agreement of all terms and conditions following board approval of the contract.

**Consideration:**

“Consideration is a legal concept that describes something of value, given in exchange for a performance or a promise of performance, and is the third requirement for a valid contract.”

- ❑ Integrity Communications clearly stated the price of all items and services offered to Information Referral Resource Assistance ISD. in writing and verbally. These prices (consideration) were agree-upon, in advance, prior to the signing of the Form 471 and had board approval.

Integrity Communications has consulted four separate “Contract-Specialized” attorneys in regards to this matter. All four have equivocally assured **us** that, according to “Contract Law” and the “FCC Form 471 Instructions-October 2000-Page 17”, under signed contracts section that a “legally binding agreement between you and your service provider preparatory to a formal signed contract” in fact did exist. Our council has further informed us that, not only did we have a legally binding agreement, but in fact, **by** law, we had a written “legally binding contract.”

This legally binding agreement is clear to Integrity Communications, Information Referral Resource Assistance ISD personnel, I.R.R.A. School Board, and is undisputable by **all** involved parties.

Since the wording of the explanation of “Signed Contract” on Page 17 of FCC Form 471 instructions-October 2000, states you must have a signed contract OR a legally binding agreement between you and your service provider, and since Integrity Communications and Information Referral Resource Assistance ISD. had, by law, a legally binding agreement, we respectfully, honorably, and formally request an immediate decision reversal of the previously denied requests for funding, and that **all** equipment and services contracted by Information Referral Resource Assistance ISD. with Integrity Communications be accepted by SLD as legally binding and legitimate.

***We anxiously await your decision on this matter and look forward to a positive future relationship with USAC and the SLD.***

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**Bill Sugarek, CEO**

## EXHIBIT C



Schools and Libraries Universal Service  
Services Ordered and Certification Form

Estimated Average Burden Hours Per Response: 4 hours

Instructions for Completing the  
Schools and Libraries Universal Service  
Services Ordered and Certification Form (FCC Form **471**)

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## KEY INFORMATION

- File your Form 471 online. This speeds the processing of your form and reduces errors.
- See if you **qualify** for E-certification. (See the “Special Block **6** Instructions for Applications Filed Online.”) If you do, obtain a User ID and a **PIN** and certify your Form 471 online as well.
- File requests for Priority 1 and Priority 2 services on separate Forms 471. (See “When, Where, and How Many Forms **471** to File.”)
- If you are **filing** on paper, review the “MINIMUM PROCESSING STANDARDS AND FILING REQUIREMENTS” for Manual **Filers**.
- Note the new methodology for libraries to calculate their discount percentages. (See the instructions for Block 4, Worksheet B.)
- Note the detailed information provided in the specific instructions for Item 25.
- Remember that the Form 471 application **filing** window for Funding Year 2003 closes at 11:59 PM EST on **January 16, 2003**. See the “Filing Requirements for Forms **471** Submitted on Paper and Online.”

## NOTICE

Section 54.504 of the Federal Communications Commission's (FCC) rules requires all schools and libraries ordering services that *are* eligible for universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator, which is the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC). 47 C.F.R. § 54.504. For purposes of this form, the Universal Service Administrator will be referred to as the "SLD" or "Fund Administrator." The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. **The** data collected in Form 471 will be used to ensure that schools and libraries *are* receiving the appropriate discounts, complying with the eligibility requirements in 47 C.F.R. § 54.501, and taking steps required by 47 C.F.R. § 54.504 that are necessary to use the discounted services effectively. **All** schools and libraries ordering services eligible for universal service discounts must file this form, individually or **as** part of a consortium.

The FCC is authorized under the Communications Act of 1934, as amended to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of any statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation, or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party of a proceeding before the body or has an interest in the proceeding.

If you owe a past due debt to the Federal government, the taxpayer identification number and other information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund, or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you do not provide the information requested on this form, the processing of your application may be delayed or your application may be returned **to** you without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, *et seq.* An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control **number**.

Public reporting burden for this collection of information is estimated to average four hours per response, including the time for reviewing instructions, **searching** existing data sources, gathering and

maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden, to the Federal Communications Commission, Performance Evaluation and Records Management Branch, Washington, D.C. 20554.

## **I. INTRODUCTION**

On May 7, 1997, the FCC adopted rules providing discounts on all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. Section 54.504 of the FCC's rules **require** all eligible schools and libraries ordering services under this discount mechanism to certify their eligibility to receive discounts. 47 C.F.R. § 54.504. Section 54.504 of the FCC's rules directs schools and libraries to submit this information on a Services Ordered and Certification Form. 47 C.F.R. § 54.504.

## **II. FILING REQUIREMENTS AND GENERAL INSTRUCTIONS**

### **A. Who Must File**

Form 471 must be filed to request discounts on eligible services for eligible schools, libraries, and consortia of those entities. Form 471 must be filed AFTER an FCC Form 470, which must be posted on the SLD web site for at least **28** days before the Form 471 is filed. This 28-day waiting period must occur before you may execute any contracts for contracted services; before you select your service provider for tariffed or month-to-month services; and before you sign and submit your Form 471. It is possible that a Form 470 posted in a prior funding year may be used where such a form resulted in a multi-year contract. (*See* Form 470 Instructions.)

**EACH BILLED ENTITY MUST FILE A FORM 471 APPLICATION.** **Thus**, even if several billed entities together filed a single Form 470, each billed entity must **file** a separate Form 471.

**IMPORTANT NOTE:** An entity is considered a "billed entity" if it is responsible for making payments directly to a service provider. An entity that receives a bill, but does not make payments to the service provider on that **bill**, is not a billed entity. **A billed entity may or may not itself qualify for discounts under the universal service support mechanism for schools and libraries.**

For purposes of the schools and libraries universal service support mechanism, schools must meet the **statutory** definition of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C. § 7801(18) and (38)**. An elementary school is a non-profit **institutional** day or residential school, including a public elementary **charter** school, that provides elementary education, as determined under state law. 47 C.F.R. § 54.500(b) and 20 U.S.C. § 7801(18). A secondary

school is a non-profit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under state law, except that such term does not include any education beyond grade 12. 47 C.F.R. § 54.500(j) and 20 U.S.C. § 7801(38). In addition, eligible elementary and secondary schools may not have endowments exceeding \$50 million. 47 C.F.R. § 54.501(b)(3).

Libraries must meet the statutory definition of library or library consortium found in the Library Services and Technology Act, Pub. L. No. 104-208, sec. 211 *et seq.*, 110 Stat. 3009 (1996) (LSTA), and must be eligible for assistance from a state library administrative agency under that Act. A library includes: “(1) a public library; (2) a public elementary school or secondary school library; (3) an academic library; (4) a research library, which for the purposes of this definition means a library that: (i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and (ii) is not an integral part of an institution of higher education; and (5) a private library, but only if the state in which such private library is located determines that the library should be considered a library for purposes of this definition.” 47 C.F.R. § 54.500(c). A library’s eligibility for universal service funding also depends on its funding as an independent entity. **Only libraries whose budgets are completely separate from any schools’ (including, but not limited to, elementary and secondary schools, colleges, and universities) shall be eligible to receive discounted services under the universal service support mechanism.** 47 C.F.R. § 54.501(c)(2). For example, an elementary school library would only be eligible to receive discounted services if its budget were completely separate from the elementary school. If its budget were not completely separate from the elementary school, the elementary school library would not be eligible for support independent from the school with which it is associated.

A library consortium is “any local, statewide, regional, or interstate cooperative association of libraries that provides for the systematic and effective coordination of the resources of schools, public, academic, and special libraries and information centers, for improving services to the clientele of such libraries.” 47 C.F.R. § 54.500(d).

## **B. When, Where, and How Many Forms 471 to File**

Form 471 must be preceded by the filing and posting of a Form 470 **for at least 28 days.**

For newly contracted, tariffed, or month-to-month services, please note that **the EARLIEST** date on which you may choose vendors or execute contracts or service agreements for those services (the Allowable Vendor Selection/Contract Date) **will** be expressly identified in a letter sent to each current-year Form 470 applicant to acknowledge **the** Fund Administrator’s receipt of the Form 470 application. The Allowable Vendor Selection/Contract Date **will** also be indicated on the Form 470 posted on the SLD web site.

The earliest date that a Form 471 can be filed will **be** the date established by the Fund Administrator **as** the opening of **the** Form 471 application filing “window.” The Form 471 application filing window is the period during which applications will be considered **as** having arrived simultaneously. All Forms

471, including certifications, received or postmarked by the close of the application filing window are considered as if they had arrived on the same day, and have priority over those postmarked after the closing date of the “window.” For Funding Year 2003, the application filing window will **open** at noon EST on Monday, November 4, 2002 and close at 11:59 p.m. EST on **January 16, 2003**.

The Form 471 may be filed either manually (on paper) or electronically (online). No Forms 471 will be accepted if sent to the SLD via e-mail or fax.

- ***If You Are Filing on Paper:*** You may complete and submit the Form 471 by filing a paper copy of the completed form, including the completed and signed Block 6 Certifications and any attachment(s), with the Fund Administrator. The signed Form 471 must be filed with the Fund Administrator **at the address listed at the bottom of the form: SLD-Form 471, P.O. Box 7026, Lawrence, Kansas 66044-7026**. For express delivery or U.S. Postal Service Return Receipt, send to: **SLD-Form 471, c/o Ms. Smith, 3833 Greenway Drive, Lawrence, Kansas 66046**, phone 1-888-203-8100. **DO NOT FILE THIS OR ANY OTHER UNIVERSAL SERVICE FORM WITH THE FEDERAL COMMUNICATIONS COMMISSION.**
- ***If You Are Filing Online:*** You may complete and submit the Form 471 by filing the Form online at the SLD web site [www.sl.universalservice.org](http://www.sl.universalservice.org). If filing your Form 471 **online**, you must also complete and submit to the SLD the following documents in order to successfully complete the submission of your Form 471 application:
  - the Item 21 description(s) of services, and
  - the Block 6 Certification with the signature of the authorized person (whether online or on paper)
    - You may qualify to submit your Form 471 certifications online. When you submit your certifications online, you will receive a confirmation so that you can be assured that your submission has met any filing deadlines. Check the SLD web site for information about obtaining a User ID and a **PIN**.

You may file more than one Form 471. For example, you may file one Form 471 for Internal Connections, one for Internet Access, and one for Telecommunications Services. As the billed entity for services requested on one or more Forms 470, you may combine services requested on multiple Forms 470 into one Form 471, or you may file a corresponding Form 471 for each Form 470 filed. Please refer to the detailed instructions for more information about these procedures.

**NOTE: Applicants who are applying for both Priority 1 (Telecommunications Services or Internet Access) and Priority 2 (Internal Connections) services are strongly encouraged to file these requests on separate Forms 471 — that is, to file one or more Forms 471 for their Priority 1 requests and one or more Forms 471 for their Priority 2 requests. This separation will allow the SLD to process Priority 1 requests and communicate decisions on funding commitments for those requests more quickly. Because there is often uncertainty**

**about the funding threshold for Internal Connections, applicants who combine funding requests for Priority 1 and Priority 2 services on a single Form 471 risk delaying the notification process for Priority 1 funding decisions.**

### **C. Assistance in Completing ~~This~~ Form**

There are several sources of assistance to guide you in completing this form. If you complete this Form online at the SLD web site at [www.sl.universalservice.org](http://www.sl.universalservice.org), you will be assisted in the process by special step-by-step online instructions. Whether you file online or on paper, you are urged to consult the Reference Area of the SLD web site, [www.sl.universalservice.org](http://www.sl.universalservice.org), for **guidance** in completing this form. Those without web access may obtain similar guidance material by calling the SLD Client Service Bureau via toll-free telephone at **1-888-203-8100**. Further information is also available from the SLD Client Service Bureau at **1-888-203-8100**, via e-mail at **question@universalservice.org**, or via fax at **1-888-276-8736**.

### **D. Compliance**

Schools and libraries, or consortia acting on behalf of schools and libraries, failing to **file** the Services Ordered and Certification Form (Form 471) will not be eligible to receive universal service discounts. Schools and libraries filing false information are subject to fines under Section 502 of the Communications Act, 47 U.S.C. § 502, forfeiture penalties under Section 503(b) of the Communications Act, 47 U.S.C. § 503(b), or penalties for false statements under Title 18 of the United States Code, 18 U.S.C. § 1001. Applicants should retain the worksheets and other records they use to compile these forms for five years. This includes all documentation showing that you have complied with all applicable competitive bidding requirements, including copies of competing bids and documentation of the bid evaluation process and bid criteria used. Thus, if applicants represent multiple billed entities, collect data from those entities, and add up that data, they should retain those data sheets for five years. If an applicant is audited, it should be prepared to make the worksheets and other records used to compile these forms available to the auditor and/or the Administrator, and it should be able to demonstrate to the auditor and/or the Administrator how the entries in its application were provided.

## **III. MINIMUM PROCESSING STANDARDS AND FILING REQUIREMENTS**

### **Form 471 ~~Minimum~~ Processing Standards**

When a Form 471 is submitted on paper and received by the SLD, the form is first reviewed to make sure it complies with the following requirements before data entry begins. These minimum processing requirements are necessary in order to ensure the timely and efficient processing of properly completed applications. If a Form 471 fails to meet these requirements, the Form 471 will be rejected. The SLD may be prevented from returning the rejected Form 471 to the sender if the form lacks essential identifying information. If an applicant receives a returned Form 471, it is important that it resubmit the corrected form quickly. Once the corrected form is successfully

processed, the postmark date of that corrected form will be the postmark date for the purpose of the application filing window deadline.

## **Manual Filers**

### **1. Correct Form:** Each Form 471 must be:

- a. the correct, OMB-approved FCC Form 471, with a date of October 2002 or October 2000 in the lower right-hand corner;
- h. submitted by regular mail, express delivery, or U.S. Postal Service Return Receipt Requested, or hand delivery. Forms may not be submitted by fax or e-mail. You are advised to keep proof of the date of mailing.

### **2. Billed Entity Information:** In Block 1, each of the following items must be properly completed. The "Billed Entity" is the entity actually paying the bills for the services listed on the Form 471.

- a. Item 1 or Item 3 – Either the Name of the Billed Entity or the Entity Number;
- b. Item 2 – Funding Year;
- c. Item 6a – Contact Person Name

If any of these items is blank, and the information cannot be obtained from the page headers, the Form 471 will be rejected.

### **3. Complete Submission of Form 471:** All 6 blocks of the Form 471 must be submitted. If any Block (1-6) of the paper form is missing, the form will be rejected. Please note that Block 2, which indicates that this Form 471 is being filed to make a minor modification to a previously filed Form 471, will usually be left blank.

### **4. Block 4 Worksheet:** At least one completed Block 4 Worksheet relevant to your application type (see Block 1, Item 5) must be submitted. If a relevant Block 4 Worksheet is not submitted or the Worksheet is missing information, the form will be rejected.

- If the application type is school or school district, a completed Block 4 Worksheet A must be submitted.
- If the application type is library, a completed Block 4 Worksheet B must be submitted.
- If the application type is consortium, a completed Block 4 Worksheet C must be submitted.

### **5. Complete Submission of Each Block 5 Funding Request:** Each Block 5 Funding Request must meet the following requirements in order to be data entered as part of the Form 471. If any of the requirements is missing, the Funding Request will be automatically deleted from the form. If all of the Block 5 Funding Requests fail to meet these requirements, the form will be rejected.

Each Block 5 Funding Request must, at a minimum, include:

- a. Item 11 – Category of Service;
- b. Item 13 or Item 14 – Either the Service Provider Identification Number or the Service Provider Name;
- c. Item 23 – At least one entry with a positive dollar value in Column E, H, I, or K must be completed. Please note that you may not increase your request after filing your Form 471, unless you submit a new Form 471. Therefore, you should take care to complete ALL applicable columns of Item 23.

In addition to the requirements listed above for Block 5, if certain components reflect a violation of program rules, they will invalidate the Funding Request featured for that service item. Discounts on services reflected in such Funding Requests will not even be entered into the SLD system; such a Funding Request will be automatically rejected, even while other Block 5 Funding Requests may be honored.

- 6. Valid Certification:** Block 6, Item 34 – Signature of authorized person must be completed. If Item 34 is left blank, the Form 471 will be rejected.

#### **Online Filers:**

When Blocks 1-5 of a Form 471 are submitted online, the applicant must also (1) submit the completed Block 6 certification online with a User ID and a PIN or (2) submit the completed and signed paper Block 6 certification by mail, express delivery or U.S. Postal Service Return Receipt Requested. Online submission of Blocks 1-5 is complete after you click on the “SUBMIT” button. If the Block 6 certification is submitted on paper, you are advised to keep proof of the date of mailing. The Block 6 certification is reviewed to make sure it complies with the requirement in #6 above. Reviewers also look for the Form 471 Application Number before the Certification and Signature Page is accepted and the Form 471 reaches “certified” status. If the paper Block 6 certification document lacks the information necessary to match it with the Blocks 1-5 of the form you filed online, then your application will not meet the application window filing requirements.

#### **Filing Requirements for Forms 471 Submitted on Paper and Online:**

**1. Application Materials:** The following materials associated with Funding Year 2003 Form 471 must be received by 11:59 p.m. EST on January 16, 2003 or postmarked on or before January 16, 2003 in order for the request to receive consideration as inside the window. These materials are:

- The Form 471 itself (whether online or on paper)
- The Block 6 certification of the Form 471 with the signature of the authorized person (whether online or on paper)



- The Block 5 certification of any Form 470 cited in a Funding Year 2003 Form 471 with the signature of the authorized person (whether online or on paper). Forms 470 with completed certifications submitted in a previous year meet this requirement. *Any* Funding Year 2003 Form 471 Block **5** funding **request** based on a Form 470 whose certification has not been received by 11:59 p.m. EST on January 16, 2003 or postmarked on or before January 16, 2003 will be rejected.

**2. Item 21 Attachment Labeling:** Label your attachment as “Item 21 Attachment,” and include the application number of the Form 471 it supports, or use the Applicant Form Identifier if you file on paper. Be sure to label the attachment to correspond with each Block 5, Item 21 of your application.

**January 16, 2003 Deadline:** Failure to make the January 16, 2003 deadline for Form 471 application materials will place the entire application outside the window, and the applicant’s funding will be jeopardized.

#### IV. SPECIFIC INSTRUCTIONS

You are encouraged to complete and submit this form **online**. It will be available on the SLD web site at [www.sl.universalservice.org](http://www.sl.universalservice.org) when the Form 471 application filing window opens along with instructions for filing **online** using the web site. Alternatively, for paper submissions, you may download a paper version of the form from the SLD web site at [www.sl.universalservice.org](http://www.sl.universalservice.org). If you file paper copies of the application, please **type** or clearly print in the spaces provided and attach additional pages if necessary and when required.

##### A. Top of Form

The data at the top of Form 471 will help both you and the SLD identify each particular Form 471 you file.

**“Do Not Write In This Area”** - The SLD uses this space to apply a bar code to your form upon receipt, so that we can properly track and archive your form.

**Applicant’s Form Identifier** (11 characters maximum) - If you are filing more than one Form 471, please use this space to assign a unique number or letter of your own devising to facilitate communication with us about THIS particular Form 471. This Applicant’s Form Identifier can be **very** simple; for example, if you are filing **three** Forms 471, you might label them “A,” “B,” and “C.” The Applicant’s Form Identifier can also be descriptive, such as “Internet.” Choose identifiers that suit your own record keeping needs.

**Form 471 Application Number-** The SLD **will** assign and insert your Form 471 Application Number. Leave this item blank.

Top of each page after page 1: If you are filing this application on paper, please provide the Entity Number (from Item 3, below), your Applicant's Form Identifier, and name and phone number of the contact person (from Item 6, below) at the top of each page of the application in the space provided. This will help alleviate problems caused if the pages of an application become separated.

**B. Block 1: Billed Entity Information**

Block 1 of Form 471 asks you for your address and basic identifications. "You" refers throughout this form to the billed entity – the party actually paying bills for the eligible schools and libraries listed in this application form.

**Item 1** (30 characters maximum) - Provide the name of the billed entity. **As** the billed entity, you may be an individual school, a school district that is the billed entity for its schools, a library (outlet/branch, system), or a consortium of those entities. You may also be a city, a state, or an entity created solely to participate in this universal service discount mechanism, but only if you are the billed entity, in that you actually pay the bills for the service to the service provider. The billed entity itself may or may not be eligible for discounts.

**Item 2** - Funding years begin on July 1 and end on June 30 each year. For example, Funding Year 2003 runs from July 1, 2003 to June 30, 2004. Provide the funding year for which you are applying for funds by filling in the appropriate year in the blanks provided (e.g., July 1, 2003 through June 30, 2004).

**Item 3** - Your Entity Number is a unique number assigned to your organization or institution by the **SLD** as a means of identifying you every time you file an application or otherwise communicate with us. If you have applied for universal service funds in previous years, or have been identified in an application filed on your behalf, you have already been assigned an Entity Number. If you do not have a record of your Entity Number, or if you have never been assigned such a number, please call the **SLD** Client Service Bureau at 1-888-203-8100.

**Items 4a-4d** - Provide your full mailing address, whether a street address, Post Office Box number, or route number. You are strongly encouraged to provide a street address rather than a Post Office Box if possible, as the Fund Administrator may need to contact you via overnight or express delivery. In addition, please provide your telephone number with area code and extension, fax number, and **e-mail** address if you have one (33 characters maximum).

**Item 5** - Check the one box that best describes the **type** of application you **are** filing. If you are filing as a school, you should check the first box. If you are **filing as** a school district, you should check the second box. If you are filing as a library (outlet/branch, system), you should check the third **box**. If you are filing as a consortium, you should check the fourth box. (**You** may be a consortium of schools, libraries, or some combination of the above which may or may not include ineligible entities. If you are filing **as** a library consortium, you should check the fourth box.)

In addition, if you are a consortium that includes non-governmental entities ineligible for universal service support, please check the box provided to indicate this. Non-profit 501(c)(3) organizations are NOT governmental entities. (Note: Consortium members eligible for universal service support such as “rural health care providers” should be treated as “governmental entities” for the purpose of these categories.) If your consortium includes ineligible non-governmental entities, you should note that you cannot negotiate pre-discount prices below tariff rates for interstate services from incumbent local telephone companies.

Item 6a (30 characters maximum) - Provide the name of the person who should be contacted with questions about this application. This person should be able to answer questions regarding the information included on this form and the services you request.

Items 6b-6f - If the contact person’s address, phone number, fax number, or e-mail address is different from those specified for the applicant in Item 4, please provide that information here. You MUST then check your preferred mode of contact. Wherever possible, the SLD will use this mode to contact you. In addition, in Item 6f, you may choose to provide an alternate telephone number, address, contact name, or special operating hours that we may use to reach you during holiday/vacation/summer periods (50 characters maximum).

**C. Block 2: Minor Modification to Existing Contract or Service Agreement**

Item 7 - Before completing this item, please check for guidelines at the SLD web site at [www.sl.universalservice.org](http://www.sl.universalservice.org) or by calling the SLD Client Service Bureau at 1-888-203-8100. The occasions for required use of this item will be identified each funding year. This item may be filed ONLY on paper. No online filings will be accepted for this item. In general, you will leave this item blank.

**D. Block 3: Impact of Services Ordered in This Application**

Block 3 asks for data to help the Fund Administrator document the potential impact of the universal service program for schools and libraries across the country, and compare that impact from year to year. Block 3 requests data pertinent to THIS application only. If you file multiple applications, you may provide different data in this section in each application. You need complete only those items that are relevant to your application. Please use precise data wherever possible, and your best estimates wherever necessary.

Items 8a-8b - Quantify the number of people affected by the services ordered in this application. Schools/school districts should complete Item 8a, libraries should complete Item 8b, and consortia should complete either or both as appropriate.

Item 8a - If your application includes eligible K- 12 schools, provide the total number of students that will potentially be affected by the services ordered in this application.

Item **8b** - If your application includes eligible libraries, provide the approximate number of patrons potentially affected by the services ordered in this application, as defined by the number of cardholders you serve or other estimates of regular library users

Items 9a-9k - These questions ask you to quantify the expected outcomes of the services you are ordering with this application. The questions focus on typical benchmarks of technology development for schools and libraries, and request **data** about these benchmarks before and after your order as reflected in this Form 471. Some are more relevant to certain types of applicants than others. Please answer **ALL** the questions that are relevant to your situation and **THIS** application. If the **quantity** or capacity of a service you order **remains** the **same** before and after your order, please complete that question by entering the same **data** in both columns.

Item 9a - If you are ordering telephone service to reach classrooms, please indicate how many classrooms had telephone service before and after your order.

Items 9b and 9c - If your order includes high-bandwidth voice/data/video service provided by a telecommunications provider, please indicate in Item 9b how many buildings had such service before your order and how many will have such service after your order. In Item 9c, indicate the highest speed of such service to a building before and after your order. If this service also provides your buildings with Internet access, please be sure to quantify that access by completing Item 9h and/or Item 9i.

Items 9d and 9e - If your order includes dial-up Internet access, please identify in Item 9d the number of dial-up connections before and after your order. In Item 9e, indicate the highest speed of such connections before and after your order. If you complete this item, please also complete Item 9h-9j as appropriate.

Items 9f and 9g - If your order includes direct access to the Internet via lines identified in this application for Internet access only, please indicate in Item 9f the number of such connections before and after your order. In Item 9g, indicate the highest speed of such connections before **and** after your order. If you complete this item, please also complete Items 9h-9j as appropriate.

Item 9h - If your application includes schools and provides for Internet access either directly or indirectly, please provide your best estimate of the number of rooms with Internet access before and after your order. Please also complete Item 9j.

Item 9i - If your application includes libraries and provides for Internet access either directly or indirectly, please provide your best estimate of the number of buildings (including bookmobiles) with Internet access before and after your order. Please also complete Item 9j.

Item 9j - Provide your best estimate of the number of computers or other devices (such as television sets, hand-held units, network terminals, and other non-PC Internet appliances) that had Internet access before your order, and how many will have Internet access after your order. **These** devices may access the Internet directly or via a local area network. If you complete this item, be **sure** to

also reflect the quality and capacity of that access by completing Items 9b and 9c, and/or Items 9d and 9e, and/or Items 9f and 9g.

**Item 9k** - Use this item to describe any other relevant outcome of your order not captured in the items above. We are particularly interested in new and emerging technology solutions made possible by eligible services ordered in this application.

#### **E. Block 4: Discount Calculation Worksheets**

This block consists of three separate worksheets designed to meet the needs of those filing as:

- Schools/school districts – Worksheet A (see step-by-step instructions).
- Libraries (outlet/branch, system) – Worksheet B (see step-by-step instructions).
- Consortia – Worksheet C (see step-by-step instructions).

Each worksheet includes its own instructions and its own step-by-step discount calculation chart.

NOTE. If you are filing as a consortium, you may also need to include one or more Worksheets A and/or one or more Worksheets B (see step-by-step instructions for Worksheet C).

#### **Instructions for Each Worksheet**

##### **Worksheet A: Discount Calculation for those entities filing as Schools/School Districts**

If you checked the first or second box in Block 1, Item 5, you should use this worksheet.

**Item 10a** - If you are filing this application as:

- a school, you need only complete one line of Item 10b, Columns 1-7. All of the services for which you are applying will be subject to the same site-specific discount you calculate here.
- a school district serving more than one school, and you are requesting services that **will** go ONLY to individual schools and **will** not be shared, complete Columns 1-7 of Item 10b for each school.
- a school district, and ALL of the schools in your district will share one or more services (whether or not those schools **will** also receive site-specific services), complete Columns 1-8 for each of your schools PLUS Item 10c.
- a school district and if some services you are requesting **will** be shared by some schools and not others (whether or not those schools **will** also receive site-specific services), complete a separate worksheet, Columns 1-8 PLUS Item 10c, for each different group of schools sharing a service. You will then label the worksheets A-1, A-2, A-3, etc.

**Item 10b** - Use this worksheet as instructed in Item 10a to calculate the appropriate discount(s).

**Item 10b, Column 1:** For each school included in your application, list the school by name on a separate row. For a new school under construction, label this item "New School Construction"

followed by the name of the school, in parentheses, if it is known at the **time** the Form 471 is submitted. If your district office or other administrative building(s) in your district is eligible for services, label this item “Administrative Entity” followed by the name, in parentheses, of ~~the~~ district office or other administrative building.

**Item 10b, Column 2:** List each school’s Entity Number. If you do not know the Entity Number for a particular school or administrative building, call the Client Service Bureau at 1-888-203-8100.

**Item 10b, Column 3:** Indicate whether each school is located in an urban or a rural area. You should base your assessment on the table posted in the “Rural/Urban Classification” information on the SLD web site at [www.sl.universalservice.org](http://www.sl.universalservice.org). Instructions accompanying the table will help you determine whether the school is located in an urban or a rural area for purposes of the **universal** service support mechanism.

#### *Calculating Each School’s Site-Specific Discount (Columns 4-7)*

**Item 10b, Column 4:** List the total number of K- 12 students in each school. For “New School Construction” or for an “Administrative Entity,” enter “0” in this item.

**Item 10b, Column 5:** Provide the number of students eligible for the National School Lunch Program (NSLP) ~~as~~ of the October 1st prior to the filing of this form, or use the most current figure available. For “New School Construction” or for an “Administrative Entity,” enter “0” in this item. You may choose to use an **actual** count of students eligible for the National School Lunch Program or use federally approved alternative mechanisms to determine the level of poverty for purposes of the universal service discount program. Schools using a federally approved alternative mechanism may use participation in other income-assistance programs, such as Medicaid, food stamps, Supplementary Security Income (SSI), federal public housing assistance (Section 8), or Low Income Home Energy Assistance Program (LIHEAP) to determine the number of students that would be eligible for the NSLP. See 34 C.F.R. § 200.28(a)(2)(i)(B). For more information, please refer to the “Alternative Discount Mechanisms Fact Sheet” posted on the SLD web site at [www.sl.universalsevice.org](http://www.sl.universalsevice.org)

**Item 10b, Column 6** For each school, divide Column 5 by Column 4 to arrive at the percentage of students eligible for the National School Lunch Program. Discount calculations may be rounded up only when fully half a discount point is reached. For example, ~~an~~ urban school with a discount eligibility of 34.499% will round down to 34%, and an urban school with a discount eligibility of 34.500% will round up to 35%. For eligibility discounts of **less than** 1%, however, there is no rounding. For “New School Construction” or for an “Administrative Entity,” leave this item blank.

**Item 10b, Column 7:** Using the percentage in Column 6 and the Discount Matrix (see below), you should determine ~~the~~ percentage discount to which the school is entitled. If you **file online**, the system will calculate this figure for you. If you have any questions about determining this figure, you